

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-1060.01 Kate Meyer

SENATE BILL 08-219

SENATE SPONSORSHIP

Romer, Groff, Morse, Tapia, and Tochtrop

HOUSE SPONSORSHIP

McFadyen and Rice, Carroll T., Kerr A., Liston, Looper, Merrifield, Middleton, Pommer, Primavera, Solano, and Stafford

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING LICENSURE OF MASSAGE THERAPISTS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Repeals the "Colorado Massage Parlor Code". Enacts the "Massage Therapy Practice Act", requiring persons who are practicing massage therapy in Colorado to obtain licenses. Sets criteria for licensure. Makes the unauthorized practice of massage therapy grounds for discipline and criminal penalties. Identifies exceptions. Defines terms.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Repeal.** Article 48.5 of title 12, Colorado Revised
3 Statutes, is repealed.

4 **SECTION 2.** Title 12, Colorado Revised Statutes, is amended BY
5 THE ADDITION OF A NEW ARTICLE to read:

6 **ARTICLE 35.5**

7 **Massage Therapists**

8 **12-35.5-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND
9 MAY BE CITED AS THE "MESSAGE THERAPY PRACTICE ACT".

10 **12-35.5-102. Legislative declaration.** (1) THE GENERAL
11 ASSEMBLY HEREBY FINDS AND DECLARES THAT IT IS IN THE INTEREST OF
12 THE PUBLIC HEALTH, SAFETY, AND WELFARE TO REQUIRE LICENSURE OF
13 MESSAGE THERAPISTS. BECAUSE PROPER AND SAFE MESSAGE THERAPY IS
14 OF STATEWIDE CONCERN, THIS ARTICLE IS DEEMED TO BE AN EXERCISE OF
15 THE POLICE POWERS OF THE STATE.

16 (2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT THE
17 PRACTICE OF MESSAGE THERAPY BY ANY PERSON NOT IN POSSESSION OF
18 A VALID LICENSE ISSUED PURSUANT TO THIS ARTICLE IS ADVERSE TO THE
19 BEST INTERESTS OF THE PEOPLE OF THIS STATE. IT IS NOT, HOWEVER, THE
20 INTENT OF THE GENERAL ASSEMBLY IN ENACTING THIS ARTICLE TO
21 PREVENT, RESTRICT, OR INHIBIT THE PRACTICE OF MESSAGE THERAPY BY
22 ANY DULY LICENSED PERSON.

23 **12-35.5-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "ADVERTISE" MEANS TO PUBLISH, DISPLAY, OR DISSEMINATE
26 INFORMATION AND INCLUDES, BUT IS NOT LIMITED TO, THE ISSUANCE OF
27 ANY CARD, SIGN, OR DIRECT MAIL, OR CAUSING OR PERMITTING ANY SIGN

1 OR MARKING ON OR IN ANY BUILDING OR STRUCTURE OR IN ANY
2 NEWSPAPER, MAGAZINE, OR DIRECTORY, OR ANY ANNOUNCEMENT OR
3 DISPLAY VIA ANY TELEVISED, COMPUTERIZED, ELECTRONIC, OR
4 TELEPHONIC NETWORKS OR MEDIA.

5 (2) "ADVISORY COMMITTEE" MEANS THE MESSAGE THERAPIST
6 ADVISORY COMMITTEE CREATED PURSUANT TO SECTION 12-35.5-117.

7 (3) "APPLICANT" MEANS A PERSON APPLYING FOR A MESSAGE
8 THERAPY LICENSE.

9 (4) "APPROVED MESSAGE SCHOOL" MEANS:

10 (a) A MESSAGE THERAPY EDUCATIONAL SCHOOL THAT HAS A
11 VALID CERTIFICATE OF APPROVAL FROM THE PRIVATE OCCUPATIONAL
12 SCHOOL DIVISION IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 59
13 OF THIS TITLE;

14 (b) A MESSAGE THERAPY EDUCATIONAL PROGRAM CERTIFIED BY
15 THE COLORADO COMMUNITY COLLEGE SYSTEM; OR

16 (c) A MESSAGE THERAPY EDUCATIONAL ENTITY OR PROGRAM IN
17 ANOTHER STATE, TERRITORY, OR COUNTRY THAT THE DIRECTOR
18 DETERMINES HAS COMPARABLE APPROVAL, ACCREDITATION, OR
19 CERTIFICATION PURSUANT TO PARAGRAPH (b) OR (c) OF THIS SUBSECTION
20 (4).

21 (5) "COMPENSATION" MEANS SOMETHING OF VALUE OR BENEFIT,
22 WHETHER IN CASH, IN KIND, OR IN ANY OTHER FORM.

23 (6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION.

24 (7) "DIVISION" MEANS THE DIVISION OF REGISTRATIONS IN THE
25 DEPARTMENT OF REGULATORY AGENCIES.

26 (8) "LICENSE" MEANS A VALID AND CURRENT LICENSE TO PRACTICE
27 MESSAGE THERAPY ISSUED PURSUANT TO THIS ARTICLE.

1 (9) "LICENSEE" MEANS A MASSAGE THERAPIST WITH A LICENSE.

2 (10) "MASSAGE" OR "MASSAGE THERAPY" MEANS A SYSTEM OF
3 STRUCTURED TOUCH, PALPATION, OR MOVEMENT OF THE SOFT TISSUE OF
4 ANOTHER PERSON'S BODY IN ORDER TO ENHANCE OR RESTORE THE
5 GENERAL HEALTH AND WELL-BEING OF THE RECIPIENT. SUCH SYSTEM
6 INCLUDES, BUT IS NOT LIMITED TO, TECHNIQUES SUCH AS EFFLEURAGE,
7 COMMONLY CALLED STROKING OR GLIDING; PETRISSAGE, COMMONLY
8 CALLED KNEADING; TAPOTEMENT OR PERCUSSION; FRICTION; VIBRATION;
9 COMPRESSION; PASSIVE AND ACTIVE STRETCHING WITHIN THE NORMAL
10 ANATOMICAL RANGE OF MOVEMENT; HYDROMASSAGE; AND THERMAL
11 MASSAGE. SUCH TECHNIQUES MAY BE APPLIED WITH OR WITHOUT THE AID
12 OF LUBRICANTS, SALT OR HERBAL PREPARATIONS, WATER, HEAT, OR A
13 MASSAGE DEVICE THAT MIMICS OR ENHANCES THE ACTIONS POSSIBLE BY
14 HUMAN HANDS.

15 (11) "MASSAGE THERAPIST" MEANS AN INDIVIDUAL LICENSED BY
16 THIS STATE TO ENGAGE IN THE PRACTICE OF MASSAGE THERAPY. THE
17 TERMS "MASSEUSE" AND "MASSEUR" ARE SYNONYMOUS WITH THE TERM
18 "MASSAGE THERAPIST".

19 (12) "PERSON" MEANS A NATURAL PERSON ONLY.

20 (13) "PROFESSIONAL MASSAGE AND BODYWORK THERAPY
21 ASSOCIATION" MEANS A STATE OR NATIONALLY CHARTERED
22 PROFESSIONAL MEMBERSHIP ORGANIZATION THAT:

- 23 (a) OFFERS SERVICES TO MASSAGE THERAPISTS;
- 24 (b) HAS BEEN IN EXISTENCE FOR AT LEAST THIRTY-SIX MONTHS
25 PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE;
- 26 (c) CONSISTS OF AT LEAST FIVE HUNDRED MEMBERS IN GOOD
27 STANDING; AND

1 (d) HAS MEMBERSHIP ELIGIBILITY CRITERIA THAT INCLUDE, AT A
2 MINIMUM:

3 (I) STANDARDS FOR MASSAGE OR BODYWORK EDUCATION IN
4 SUBJECT AREAS INCLUDING ANATOMY, PHYSIOLOGY, HYGIENE,
5 SANITATION, ETHICS, AND APPLICATION OF MASSAGE TECHNIQUES; AND

6 (II) A CODE OF ETHICS WITH WHICH THE MEMBERS OF THE
7 ASSOCIATION AGREE TO COMPLY, AND PROCEDURES TO SUSPEND OR
8 REVOKE THE MEMBERSHIP OF ANY PERSON WHO VIOLATES SUCH CODE.

9 **12-35.5-104. Use of massage titles restricted.** ONLY A PERSON
10 LICENSED AS A MASSAGE THERAPIST MAY USE THE TITLES "MASSAGE
11 THERAPIST", "LICENSED MASSAGE THERAPIST", "MASSAGE PRACTITIONER",
12 "MASSEUSE", "MASSEUR", THE LETTERS "M.T." OR "L.M.T.", OR ANY
13 OTHER GENERALLY ACCEPTED TERMS, LETTERS, OR FIGURES THAT
14 INDICATE THAT THE PERSON IS A MASSAGE THERAPIST.

15 **12-35.5-105. Limitations on authority.** (1) NOTHING IN THIS
16 ARTICLE SHALL BE CONSTRUED AS AUTHORIZING A MASSAGE THERAPIST
17 TO PERFORM ANY OF THE FOLLOWING ACTS:

18 (a) THE PRACTICE OF MEDICINE PURSUANT TO ARTICLE 36 OF THIS
19 TITLE;

20 (b) THE PRACTICE OF PHYSICAL THERAPY PURSUANT TO ARTICLE
21 41 OF THIS TITLE;

22 (c) THE PRACTICE OF CHIROPRACTIC PURSUANT TO ARTICLE 33 OF
23 THIS TITLE; OR

24 (d) ANY OTHER FORMS OF HEALING OR HEALING ARTS NOT
25 AUTHORIZED BY THIS ARTICLE.

26 **12-35.5-106. License required.** EXCEPT AS OTHERWISE
27 PROVIDED IN THIS ARTICLE, A PERSON IN THIS STATE WHO PRACTICES

1 MASSAGE THERAPY OR WHO REPRESENTS ONESELF AS BEING ABLE TO
2 PRACTICE MASSAGE THERAPY MUST POSSESS A VALID LICENSE ISSUED BY
3 THE DIRECTOR PURSUANT TO THIS ARTICLE AND RULES PROMULGATED
4 PURSUANT TO THIS ARTICLE.

5 **12-35.5-107. Licensure - reciprocity - denial of license**
6 **application.** (1) EVERY APPLICANT FOR A LICENSE TO PRACTICE
7 MASSAGE THERAPY SHALL:

8 (a) ATTAIN A DEGREE, DIPLOMA, OR OTHERWISE SUCCESSFULLY
9 COMPLETE A MASSAGE THERAPY PROGRAM THAT CONSISTS OF AT LEAST
10 FIVE HUNDRED TOTAL HOURS OF COURSE WORK AND CLINICAL WORK FROM
11 AN APPROVED MASSAGE SCHOOL;

12 (b) PASS A NATIONALLY RECOGNIZED ENTRY-LEVEL COMPETENCY
13 EXAMINATION THAT HAS BEEN APPROVED BY THE DIRECTOR IN
14 CONSULTATION WITH THE ADVISORY COMMITTEE;

15 (c) SUBMIT AN APPLICATION IN THE FORM AND MANNER SPECIFIED
16 BY THE DIRECTOR;

17 (d) PAY A FEE IN AN AMOUNT DETERMINED BY THE DIRECTOR; AND

18 (e) SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK IN THE
19 FORM AND MANNER AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

20 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) OF THIS
21 SECTION, WITH THE SUBMISSION OF AN APPLICATION FOR A LICENSE
22 GRANTED PURSUANT TO THIS ARTICLE, EACH APPLICANT SHALL SUBMIT A
23 COMPLETE SET OF HIS OR HER FINGERPRINTS TO THE DIRECTOR. THE
24 DIRECTOR SHALL FORWARD SUCH FINGERPRINTS TO THE COLORADO
25 BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING A STATE
26 AND NATIONAL FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
27 UTILIZING THE RECORDS OF THE COLORADO BUREAU OF INVESTIGATION

1 AND THE FEDERAL BUREAU OF INVESTIGATION. THE APPLICANT SHALL PAY
2 THE COSTS ASSOCIATED WITH THE FINGERPRINT-BASED CRIMINAL HISTORY
3 RECORD CHECK TO THE COLORADO BUREAU OF INVESTIGATION.

4 (3) AFTER AN APPLICANT HAS FULFILLED THE REQUIREMENTS OF
5 SUBSECTIONS (1) AND (2) OF THIS SECTION, THE DIRECTOR SHALL ISSUE A
6 LICENSE TO THE APPLICANT.

7 (4) FOR A PERIOD OF ONE YEAR AFTER THE DATE THAT
8 APPLICATIONS FOR LICENSES ARE MADE AVAILABLE, THE DIRECTOR MAY
9 ISSUE A LICENSE TO A PERSON PRACTICING MASSAGE THERAPY WHO
10 SUBMITS THE APPLICATION AND FEE PURSUANT TO PARAGRAPHS (c) AND
11 (d) OF SUBSECTION (1) OF THIS SECTION, AND WHO MEETS ONE OF THE
12 FOLLOWING QUALIFICATIONS:

13 (a) THE PERSON HOLDS A CURRENT PROFESSIONAL LICENSE FROM
14 A POLITICAL SUBDIVISION OF COLORADO THAT PREVIOUSLY REGULATED
15 THE PRACTICE OF MASSAGE THERAPY; OR

16 (b) THE PERSON HAS BEEN A MEMBER OF A PROFESSIONAL
17 MASSAGE AND BODYWORK THERAPY ASSOCIATION, AS A MASSAGE
18 THERAPIST, FOR AT LEAST ONE YEAR PRIOR TO SEEKING LICENSURE; OR

19 (c) THE PERSON HAS COMPLETED A MASSAGE THERAPY PROGRAM
20 OF AT LEAST FIVE HUNDRED HOURS OF COURSE WORK AND CLINICAL WORK
21 FROM AN APPROVED MASSAGE SCHOOL.

22 (5) THE DIRECTOR SHALL ISSUE A LICENSE TO AN APPLICANT WHO
23 OTHERWISE MEETS THE QUALIFICATIONS SET FORTH IN THIS ARTICLE AND
24 WHO SUBMITS SATISFACTORY PROOF AND CERTIFIES UNDER PENALTY OF
25 PERJURY THAT THE APPLICANT CURRENTLY POSSESSES AN UNRESTRICTED
26 LICENSE IN GOOD STANDING TO PRACTICE MASSAGE THERAPY UNDER THE
27 LAWS OF ANOTHER STATE OR TERRITORY OF THE UNITED STATES OR A

1 FOREIGN COUNTRY IF:

2 (a) THE DIRECTOR DETERMINES THAT THE QUALIFICATIONS FOR
3 MASSAGE THERAPY LICENSURE IN THE OTHER STATE, TERRITORY, OR
4 FOREIGN COUNTRY ARE SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED
5 BY THIS SECTION;

6 (b) THE APPLICANT SUBMITS PROOF OF EXPERIENCE AND
7 COMPETENCY ON A FORM DETERMINED BY THE DIRECTOR; AND

8 (c) THE DIRECTOR REVIEWS ANY DISCIPLINARY ACTIONS TAKEN
9 AGAINST THE APPLICANT.

10 (6) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE
11 DIRECTOR MAY DENY A LICENSE IF THE APPLICANT HAS COMMITTED ANY
12 ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
13 12-35.5-111.

14 **12-35.5-108. License expiration - effect - renewal -**
15 **reinstatement - penalty.** (1) LICENSES ISSUED PURSUANT TO THIS
16 ARTICLE SHALL BE VALID FOR THE PERIOD OF TIME ESTABLISHED BY THE
17 DIRECTOR. LICENSES SHALL BE RENEWED IN ACCORDANCE WITH THE
18 SCHEDULE SET FORTH BY THE DIRECTOR.

19 (2) A LICENSE NOT RENEWED WITHIN THE TIME PERIOD SPECIFIED
20 IN THE SCHEDULE ESTABLISHED BY THE DIRECTOR SHALL BE DEEMED
21 EXPIRED. A PERSON IN POSSESSION OF AN EXPIRED LICENSE SHALL NOT
22 PRACTICE MASSAGE THERAPY UNTIL HE OR SHE REINSTATES SUCH LICENSE.

23 (3) THE DIRECTOR SHALL ESTABLISH APPLICATION FORMS AND FEE
24 AMOUNTS FOR RENEWAL OF LICENSES AND REINSTATEMENT OF EXPIRED
25 LICENSES. A PERSON RENEWING OR REINSTATING A LICENSE SHALL
26 SUBMIT AN APPLICATION IN THE FORM AND MANNER SET FORTH BY THE
27 DIRECTOR AND SHALL PAY A FEE IN AN AMOUNT SET FORTH BY THE

1 DIRECTOR.

2 **12-35.5-109. Fees.** ALL FEES COLLECTED PURSUANT TO THIS
3 ARTICLE SHALL BE DETERMINED, COLLECTED, AND APPROPRIATED IN THE
4 MANNER SET FORTH IN SECTION 24-34-105, C.R.S., AND PERIODICALLY
5 ADJUSTED IN ACCORDANCE WITH SECTION 24-75-402, C.R.S.

6 **12-35.5-110. Scope of article - exclusions - authority for**
7 **clinical setting.** (1) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO
8 PROHIBIT ANY OF THE FOLLOWING:

9 (a) THE PRACTICE OF MASSAGE THERAPY THAT IS A PART OF A
10 PROGRAM OF STUDY BY STUDENTS ENROLLED IN A MASSAGE THERAPY
11 PROGRAM AT AN APPROVED MASSAGE THERAPY SCHOOL. STUDENTS
12 ENROLLED IN SUCH PROGRAMS SHALL BE IDENTIFIED AS "STUDENT
13 MASSAGE THERAPISTS" AND SHALL NOT HOLD THEMSELVES OUT AS
14 LICENSED MASSAGE THERAPISTS. STUDENT MASSAGE THERAPISTS SHALL
15 PRACTICE MASSAGE THERAPY ONLY UNDER THE IMMEDIATE SUPERVISION
16 OF A MASSAGE THERAPIST HOLDING A VALID AND CURRENT LICENSE.
17 FACULTY MEMBERS TEACHING NONCLINICAL ASPECTS OF MASSAGE
18 THERAPY SHALL NOT BE REQUIRED TO BE LICENSED MASSAGE THERAPISTS.

19 (b) THE PRACTICE OF MASSAGE THERAPY BY A PERSON EMPLOYED
20 BY THE UNITED STATES GOVERNMENT OR ANY FEDERAL GOVERNMENTAL
21 ENTITY WHILE ACTING IN THE COURSE AND SCOPE OF SUCH EMPLOYMENT;

22 (c) THE PRACTICE OF MASSAGE THERAPY BY A PERSON WHO IS A
23 RESIDENT OF ANOTHER STATE AND WHO IS IN COLORADO TEMPORARILY
24 UNDER ONE OF THE FOLLOWING CIRCUMSTANCES:

25 (I) THE PERSON IS TRAVELING WITH AND ADMINISTERING MASSAGE
26 THERAPY TO MEMBERS OF A PROFESSIONAL OR AMATEUR SPORTS
27 ORGANIZATION, DANCE TROUPE, OR OTHER SUCH ATHLETIC

1 ORGANIZATION;

2 (II) THE PERSON PROVIDES MASSAGE THERAPY, WITHOUT
3 COMPENSATION, AT A PUBLIC ATHLETIC EVENT SUCH AS THE OLYMPIC
4 GAMES, SPECIAL OLYMPICS, YOUTH OLYMPICS, OR MARATHONS, IF THE
5 MASSAGE THERAPY IS PROVIDED NO EARLIER THAN FORTY-EIGHT HOURS
6 PRIOR TO THE COMMENCEMENT OF THE EVENT AND NO LATER THAN
7 TWENTY-FOUR HOURS AFTER THE CONCLUSION OF THE EVENT;

8 (III) THE PERSON IS PART OF AN EMERGENCY RESPONSE TEAM OR
9 IS OTHERWISE WORKING WITH OR FOR DISASTER RELIEF OFFICIALS TO
10 PROVIDE MASSAGE THERAPY IN CONNECTION WITH A DISASTER SITUATION;

11 OR

12 (IV) THE PERSON IS PARTICIPATING AS A STUDENT IN OR
13 INSTRUCTOR OF AN EDUCATIONAL PROGRAM, IF:

14 (A) THE PROGRAM DOES NOT EXCEED SIXTEEN DAYS IN DURATION;

15 OR

16 (B) THE PROGRAM EXCEEDS SIXTEEN DAYS IN DURATION AND THE
17 PERSON OBTAINS A GRANT OF AN EXTENSION OF TIME FROM THE DIRECTOR
18 PRIOR TO THE SEVENTEENTH DAY;

19 (d) THE PERSON PROVIDES MASSAGE THERAPY TO MEMBERS OF THE
20 PERSON'S IMMEDIATE FAMILY;

21 (e) THE PERSON PROVIDES ALTERNATIVE PHYSICAL TREATMENTS
22 AND DOES NOT HOLD HIMSELF OR HERSELF OUT AS A MASSAGE THERAPIST.

23 FOR THE PURPOSES OF THIS PARAGRAPH (e), "ALTERNATIVE PHYSICAL
24 TREATMENTS" INCLUDE, BUT ARE NOT LIMITED TO:

25 (I) PRACTICES IN WHICH ONLY THE SOFT TISSUE OF A PERSON'S
26 HANDS, FEET, OR EARS ARE MANIPULATED;

27 (II) PRACTICES USING TOUCH, WORDS, AND DIRECTED MOVEMENTS

1 TO DEEPEN A PERSON'S AWARENESS OF MOVEMENT PATTERNS IN HIS OR
2 HER BODY, SUCH AS THE FELDENKRAIS METHOD, THE TRAGER APPROACH,
3 AND MIND-BODY CENTERING;

4 (III) PRACTICES USING TOUCH TO AFFECT THE HUMAN ENERGY
5 SYSTEMS, SUCH AS REIKI, SHIATSU, AND ASIAN OR POLARITY BODYWORK
6 THERAPY; AND

7 (IV) STRUCTURAL INTEGRATION PRACTICES SUCH AS ROLFING AND
8 HELLERWORK.

9 **12-35.5-111. Grounds for discipline.** (1) THE DIRECTOR IS
10 AUTHORIZED TO TAKE DISCIPLINARY ACTION PURSUANT TO SECTION
11 12-35.5-112 AGAINST ANY PERSON WHO HAS:

12 (a) ADVERTISED, REPRESENTED, OR HELD HIMSELF OR HERSELF
13 OUT AS A LICENSED MASSAGE THERAPIST AFTER THE EXPIRATION,
14 SUSPENSION, OR REVOCATION OF HIS OR HER LICENSE;

15 (b) COMMITTED AN ACT THAT DOES NOT MEET THE GENERALLY
16 ACCEPTED STANDARDS OF MASSAGE THERAPY PRACTICE, OR HAS FAILED
17 TO PERFORM AN ACT NECESSARY TO MEET GENERALLY ACCEPTED
18 STANDARDS OF MASSAGE THERAPY PRACTICE;

19 (c) ENGAGED IN A SEXUAL ACT WITH A CLIENT WHILE A
20 THERAPEUTIC RELATIONSHIP EXISTS. FOR THE PURPOSES OF THIS
21 PARAGRAPH (c):

22 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
23 OR SEXUAL PENETRATION AS DEFINED IN SECTION 18-3-401, C.R.S.

24 (II) "THERAPEUTIC RELATIONSHIP" MEANS THE PERIOD OF TIME
25 COMMENCING WITH THE INITIAL SESSION OF MASSAGE AND ENDING UPON
26 WRITTEN TERMINATION OF THE RELATIONSHIP FROM EITHER PARTY.

27 (d) FAILED TO REFER A PATIENT TO A GENERAL HEALTH CARE

1 PRACTITIONER WHEN THE SERVICES REQUIRED BY THE CLIENT ARE BEYOND
2 THE LEVEL OF COMPETENCE OF THE MASSAGE THERAPIST OR BEYOND THE
3 SCOPE OF MASSAGE PRACTICE;

4 (e) FAILED TO PROVIDE ADEQUATE SUPERVISION TO STUDENT
5 MASSAGE THERAPISTS ACTING UNDER THE DIRECTION OF THE LICENSEE;

6 (f) FAILED TO KEEP ACCURATE AND CURRENT RECORDS OR
7 FALSIFIED OR MADE INCORRECT ENTRIES OF AN ESSENTIAL NATURE ON
8 RECORDS;

9 (g) FALSIFIED INFORMATION IN ANY APPLICATION OR ATTEMPTED
10 TO OBTAIN OR OBTAINED A LICENSE BY FRAUD, DECEPTION, OR
11 MISREPRESENTATION;

12 (h) FRAUDULENTLY OBTAINED OR FURNISHED A MASSAGE
13 THERAPY LICENSE; A RENEWAL OR REINSTATEMENT OF A LICENSE,
14 DIPLOMA, CERTIFICATE, OR RECORD; OR AIDED AND ABETTED ANY SUCH
15 ACTS;

16 (i) A DEPENDENCE ON OR ADDICTION TO ALCOHOL OR ANY
17 HABIT-FORMING DRUG OR ABUSES OR ENGAGES IN THE HABITUAL OR
18 EXCESSIVE USE OF ANY SUCH HABIT-FORMING DRUG OR ANY CONTROLLED
19 SUBSTANCE AS DEFINED IN SECTION 18-18-102, C.R.S., BUT THE DIRECTOR
20 MAY TAKE INTO ACCOUNT THE LICENSEE'S PARTICIPATION IN A
21 REHABILITATION PROGRAM WHEN CONSIDERING DISCIPLINARY ACTION;

22 (j) A PHYSICAL OR MENTAL CONDITION OR DISABILITY THAT
23 RENDERS THE LICENSEE UNABLE TO PROVIDE MASSAGE THERAPY WITH
24 REASONABLE SKILL AND SAFETY OR THAT MAY ENDANGER THE HEALTH OR
25 SAFETY OF CLIENTS RECEIVING MASSAGE SERVICES;

26 (k) REFUSED TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION
27 WHEN SO ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-35.5-114;

1 (l) FAILED TO NOTIFY THE DIRECTOR, IN WRITING, OF THE ENTRY
2 OF A FINAL JUDGMENT BY A COURT OF COMPETENT JURISDICTION IN FAVOR
3 OF ANY PARTY AND AGAINST THE LICENSEE FOR MALPRACTICE OF
4 MASSAGE THERAPY OR ANY SETTLEMENT BY THE LICENSEE IN RESPONSE
5 TO CHARGES OR ALLEGATIONS OF MALPRACTICE OF MASSAGE THERAPY.
6 SUCH NOTICE SHALL BE GIVEN WITHIN NINETY DAYS AFTER THE ENTRY OF
7 THE JUDGMENT OR SETTLEMENT AND, IN THE CASE OF A JUDGMENT, SHALL
8 CONTAIN THE NAME OF THE COURT, THE CASE NUMBER, AND THE NAMES
9 OF ALL PARTIES TO THE ACTION.

10 (m) BEEN CONVICTED OF A FELONY OR PLED GUILTY OR NOLO
11 CONTENDERE TO A FELONY OR COMMITTED ANY ACT SPECIFIED IN SECTION
12 12-35.5-113. A CERTIFIED COPY OF THE JUDGMENT OF A COURT OF
13 COMPETENT JURISDICTION OF A CONVICTION OR PLEA SHALL BE
14 CONCLUSIVE EVIDENCE OF THE CONVICTION OR PLEA. IN CONSIDERING THE
15 DISCIPLINARY ACTION, THE DIRECTOR SHALL BE GOVERNED BY THE
16 PROVISIONS OF SECTION 24-5-101, C.R.S.

17 (n) ADVERTISED, REPRESENTED, HELD HIMSELF OR HERSELF OUT
18 IN ANY MANNER, OR USED ANY DESIGNATION IN CONNECTION WITH HIS OR
19 HER NAME AS A MASSAGE THERAPIST WITHOUT BEING LICENSED OR
20 EXEMPT PURSUANT TO THIS ARTICLE; OR

21 (o) VIOLATED OR AIDED OR ABETTED A VIOLATION OF ANY
22 PROVISION OF THIS ARTICLE, ANY RULE ADOPTED UNDER THIS ARTICLE, OR
23 ANY LAWFUL ORDER OF THE DIRECTOR.

24 **12-35.5-112. Disciplinary proceedings - injunctions -**
25 **investigations - letters of admonition - hearings - judicial review.**

26 (1) THE DIRECTOR MAY REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW
27 A LICENSE OR PLACE ON PROBATION OR ISSUE A LETTER OF ADMONITION TO

1 A LICENSEE IN ACCORDANCE WITH THE DISCIPLINARY PROCEEDINGS
2 DESCRIBED IN THIS SECTION UPON PROOF THAT THE PERSON COMMITTED
3 A VIOLATION OF SECTION 12-35.5-111.

4 (2) THE DIRECTOR MAY REQUEST THE ATTORNEY GENERAL TO
5 SEEK AN INJUNCTION, IN ANY COURT OF COMPETENT JURISDICTION, TO
6 ENJOIN ANY PERSON FROM COMMITTING AN ACT PROHIBITED BY THIS
7 ARTICLE. WHEN SEEKING AN INJUNCTION UNDER THIS SUBSECTION (2),
8 THE ATTORNEY GENERAL SHALL NOT BE REQUIRED TO ALLEGE OR PROVE
9 THE INADEQUACY OF ANY REMEDY AT LAW OR THAT SUBSTANTIAL OR
10 IRREPARABLE DAMAGE IS LIKELY TO RESULT FROM A CONTINUED
11 VIOLATION OF THIS ARTICLE.

12 (3) (a) THE DIRECTOR IS AUTHORIZED TO INVESTIGATE, HOLD
13 HEARINGS, AND GATHER EVIDENCE IN ALL MATTERS RELATED TO THE
14 EXERCISE AND PERFORMANCE OF THE POWERS AND DUTIES OF THE
15 DIRECTOR PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AND THIS
16 ARTICLE.

17 (b) THE DIRECTOR OR AN ADMINISTRATIVE LAW JUDGE SHALL
18 HAVE THE POWER TO ADMINISTER OATHS, TAKE AFFIRMATIONS OF
19 WITNESSES, AND ISSUE SUBPOENAS TO COMPEL THE ATTENDANCE OF
20 WITNESSES AND THE PRODUCTION OF ALL RELEVANT PAPERS, BOOKS,
21 RECORDS, DOCUMENTARY EVIDENCE, AND MATERIALS IN ANY HEARING,
22 INVESTIGATION, ACCUSATION, OR OTHER MATTER COMING BEFORE THE
23 DIRECTOR. THE DIRECTOR MAY APPOINT AN ADMINISTRATIVE LAW JUDGE
24 PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT
25 HEARINGS, TAKE EVIDENCE, AND TO MAKE FINDINGS AND REPORT THEM TO
26 THE DIRECTOR.

27 (c) UPON FAILURE OF ANY WITNESS TO COMPLY WITH SUCH

1 SUBPOENA OR PROCESS, THE DISTRICT COURT OF THE COUNTY IN WHICH
2 THE SUBPOENAED PERSON OR LICENSEE RESIDES OR CONDUCTS BUSINESS,
3 UPON APPLICATION BY THE DIRECTOR WITH NOTICE TO THE SUBPOENAED
4 PERSON OR LICENSEE, MAY ISSUE TO THE PERSON OR LICENSEE AN ORDER
5 REQUIRING THAT PERSON OR LICENSEE TO APPEAR BEFORE THE DIRECTOR;
6 TO PRODUCE THE RELEVANT PAPERS, BOOKS, RECORDS, DOCUMENTARY
7 EVIDENCE, OR MATERIALS IF SO ORDERED; OR TO GIVE EVIDENCE
8 TOUCHING THE MATTER UNDER INVESTIGATION OR IN QUESTION. FAILURE
9 TO OBEY THE ORDER OF THE COURT MAY BE PUNISHED BY THE COURT AS
10 A CONTEMPT OF COURT.

11 (4) (a) THE DIRECTOR, THE DIRECTOR'S STAFF, ANY PERSON ACTING
12 AS A WITNESS OR CONSULTANT TO THE DIRECTOR, ANY WITNESS
13 TESTIFYING IN A PROCEEDING AUTHORIZED UNDER THIS ARTICLE, AND ANY
14 PERSON WHO LODGES A COMPLAINT PURSUANT TO THIS ARTICLE SHALL BE
15 IMMUNE FROM LIABILITY IN ANY CIVIL ACTION BROUGHT AGAINST HIM OR
16 HER FOR ACTS OCCURRING WHILE ACTING IN HIS OR HER CAPACITY AS
17 DIRECTOR, STAFF, CONSULTANT, OR WITNESS, RESPECTIVELY, IF SUCH
18 INDIVIDUAL WAS ACTING IN GOOD FAITH WITHIN THE SCOPE OF HIS OR HER
19 RESPECTIVE CAPACITY, MADE A REASONABLE EFFORT TO OBTAIN THE
20 FACTS OF THE MATTER AS TO WHICH HE OR SHE ACTED, AND ACTED IN THE
21 REASONABLE BELIEF THAT THE ACTION TAKEN BY HIM OR HER WAS
22 WARRANTED BY THE FACTS.

23 (b) A PERSON WHO IN GOOD FAITH MAKES A COMPLAINT OR
24 REPORT OR PARTICIPATES IN AN INVESTIGATIVE OR ADMINISTRATIVE
25 PROCEEDING PURSUANT TO THIS ARTICLE SHALL BE IMMUNE FROM
26 LIABILITY, CIVIL OR CRIMINAL, THAT OTHERWISE MIGHT RESULT FROM
27 SUCH PARTICIPATION.

1 (5) AN EMPLOYER OF A MASSAGE THERAPIST SHALL REPORT TO
2 THE DIRECTOR ANY DISCIPLINARY ACTION TAKEN AGAINST THE MASSAGE
3 THERAPIST OR THE RESIGNATION OF SUCH MASSAGE THERAPIST IN LIEU OF
4 DISCIPLINARY ACTION FOR CONDUCT THAT VIOLATES THIS ARTICLE.

5 (6) ON COMPLETION OF AN INVESTIGATION, THE DIRECTOR SHALL
6 FIND ONE OF THE FOLLOWING:

7 (a) THE COMPLAINT IS WITHOUT MERIT AND NO FURTHER ACTION
8 NEED BE TAKEN WITH REFERENCE THERETO;

9 (b) THERE IS NO REASONABLE CAUSE TO WARRANT FURTHER
10 ACTION;

11 (c) THE INVESTIGATION DISCLOSES AN INSTANCE OF CONDUCT
12 THAT DOES NOT WARRANT FORMAL ACTION BY THE DIRECTOR AND
13 SHOULD BE DISMISSED, BUT IN WHICH THE INQUIRY PANEL HAS NOTICED
14 INDICATIONS OF POSSIBLE ERRANT CONDUCT BY THE LICENSEE THAT
15 COULD LEAD TO SERIOUS CONSEQUENCES IF NOT CORRECTED. IN SUCH A
16 CASE, A CONFIDENTIAL LETTER OF ADMONITION SHALL BE SENT TO THE
17 LICENSEE AGAINST WHOM THE COMPLAINT WAS MADE PURSUANT TO
18 SUBSECTION (7) OF THIS SECTION.

19 (d) THE COMPLAINT DISCLOSES MISCONDUCT BY THE LICENSEE
20 THAT WARRANTS FORMAL ACTION. WHEN A COMPLAINT OR AN
21 INVESTIGATION DISCLOSES AN INSTANCE OF MISCONDUCT THAT, IN THE
22 OPINION OF THE DIRECTOR, WARRANTS FORMAL ACTION, THE COMPLAINT
23 SHALL NOT BE RESOLVED BY A DEFERRED SETTLEMENT, ACTION,
24 JUDGMENT, OR PROSECUTION. RATHER, THE DIRECTOR SHALL INITIATE
25 DISCIPLINARY PROCEEDINGS PURSUANT TO SUBSECTION (8) OF THIS
26 SECTION.

27 (7) (a) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN

1 INSTANCE OF MISCONDUCT THAT, IN THE OPINION OF THE DIRECTOR, DOES
2 NOT WARRANT FORMAL ACTION BY THE DIRECTOR BUT THAT SHOULD NOT
3 BE DISMISSED AS BEING WITHOUT MERIT, A LETTER OF ADMONITION MAY
4 BE ISSUED AND SENT, BY CERTIFIED MAIL, TO THE LICENSEE.

5 (b) WHEN A LETTER OF ADMONITION IS SENT BY THE DIRECTOR, BY
6 CERTIFIED MAIL, TO A LICENSEE, THE LICENSEE SHALL BE ADVISED THAT
7 HE OR SHE HAS THE RIGHT TO REQUEST IN WRITING, WITHIN TWENTY DAYS
8 AFTER RECEIPT OF THE LETTER, THAT FORMAL DISCIPLINARY PROCEEDINGS
9 BE INITIATED TO ADJUDICATE THE PROPRIETY OF THE CONDUCT UPON
10 WHICH THE LETTER OF ADMONITION IS BASED.

11 (c) IF THE REQUEST FOR ADJUDICATION IS TIMELY MADE, THE
12 LETTER OF ADMONITION SHALL BE DEEMED VACATED AND THE MATTER
13 SHALL BE PROCESSED BY MEANS OF FORMAL DISCIPLINARY PROCEEDINGS.

14 (8) (a) A DISCIPLINARY PROCEEDING MAY BE COMMENCED WHEN
15 THE DIRECTOR HAS REASONABLE GROUNDS TO BELIEVE THAT A LICENSEE
16 HAS COMMITTED ANY ACT THAT VIOLATES SECTION 12-35.5-111.

17 (b) DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED PURSUANT
18 TO ARTICLE 4 OF TITLE 24, C.R.S., AND THE HEARING AND OPPORTUNITY
19 FOR REVIEW SHALL BE CONDUCTED PURSUANT TO THAT ARTICLE BY THE
20 DIRECTOR OR BY AN ADMINISTRATIVE LAW JUDGE, AT THE DIRECTOR'S
21 DISCRETION.

22 (c) IF, AFTER THE HEARING, THE DIRECTOR FINDS THE CHARGES
23 PROVEN AND ORDERS THAT DISCIPLINE BE IMPOSED, HE OR SHE SHALL
24 ALSO DETERMINE THE EXTENT OF SUCH DISCIPLINE. THE DIRECTOR MAY
25 REVOKE, SUSPEND, DENY, OR REFUSE TO RENEW A LICENSE, OR PLACE A
26 LICENSEE ON PROBATION.

27 (d) IF THE DIRECTOR FINDS THE CHARGES AGAINST THE LICENSEE

1 PROVED AND ORDERS THAT DISCIPLINE BE IMPOSED, THE DIRECTOR MAY
2 REQUIRE, AS A CONDITION OF REINSTATEMENT, THAT THE LICENSEE TAKE
3 THERAPY OR COURSES OF TRAINING OR EDUCATION AS MAY BE NEEDED TO
4 CORRECT ANY DEFICIENCY FOUND.

5 (9) A FINAL ACTION OF THE DIRECTOR MAY BE JUDICIALLY
6 REVIEWED BY THE COURT OF APPEALS IN ACCORDANCE WITH SECTION
7 24-4-106 (11), C.R.S., AND JUDICIAL PROCEEDINGS FOR THE
8 ENFORCEMENT OF AN ORDER OF THE DIRECTOR MAY BE INSTITUTED IN
9 ACCORDANCE WITH SECTION 24-4-106, C.R.S.

10 **12-35.5-113. Cease-and-desist orders.** (1) (a) IF IT APPEARS TO
11 THE DIRECTOR, BASED UPON CREDIBLE EVIDENCE AS PRESENTED IN A
12 WRITTEN COMPLAINT BY ANY PERSON, THAT A LICENSEE IS ACTING IN A
13 MANNER THAT IS AN IMMINENT THREAT TO THE HEALTH AND SAFETY OF
14 THE PUBLIC, OR A PERSON IS ACTING OR HAS ACTED WITHOUT THE
15 REQUIRED LICENSE, THE DIRECTOR MAY ISSUE AN ORDER TO CEASE AND
16 DESIST SUCH ACTIVITY. THE ORDER SHALL SET FORTH THE STATUTES AND
17 RULES ALLEGED TO HAVE BEEN VIOLATED, THE FACTS ALLEGED TO HAVE
18 CONSTITUTED THE VIOLATION, AND THE REQUIREMENT THAT ALL
19 UNLAWFUL ACTS OR UNLICENSED PRACTICES IMMEDIATELY CEASE.

20 (b) WITHIN TEN DAYS AFTER SERVICE OF THE ORDER TO CEASE AND
21 DESIST PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE
22 RESPONDENT MAY REQUEST A HEARING ON THE QUESTION OF WHETHER
23 ACTS OR PRACTICES IN VIOLATION OF THIS ARTICLE HAVE OCCURRED.
24 SUCH HEARING SHALL BE CONDUCTED PURSUANT TO SECTIONS 24-4-104
25 AND 24-4-105, C.R.S.

26 (2) (a) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
27 EVIDENCE AS PRESENTED IN A WRITTEN COMPLAINT BY ANY PERSON, THAT

1 A PERSON HAS VIOLATED ANY OTHER PROVISION OF THIS ARTICLE, THEN,
2 IN ADDITION TO ANY SPECIFIC POWERS GRANTED PURSUANT TO THIS
3 ARTICLE, THE DIRECTOR MAY ISSUE TO SUCH PERSON AN ORDER TO SHOW
4 CAUSE AS TO WHY THE DIRECTOR SHOULD NOT ISSUE A FINAL ORDER
5 DIRECTING SUCH PERSON TO CEASE AND DESIST FROM THE UNLAWFUL ACT.

6 (b) A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS
7 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL
8 BE PROMPTLY NOTIFIED BY THE DIRECTOR OF THE ISSUANCE OF THE
9 ORDER, ALONG WITH A COPY OF THE ORDER, THE FACTUAL AND LEGAL
10 BASIS FOR THE ORDER, AND THE DATE SET BY THE DIRECTOR FOR A
11 HEARING ON THE ORDER. SUCH NOTICE MAY BE SERVED BY PERSONAL
12 SERVICE, BY FIRST-CLASS UNITED STATES MAIL, POSTAGE PREPAID, OR AS
13 MAY BE PRACTICABLE UPON ANY PERSON AGAINST WHOM SUCH ORDER IS
14 ISSUED. PERSONAL SERVICE OR MAILING OF AN ORDER OR DOCUMENT
15 PURSUANT TO THIS SUBSECTION (2) SHALL CONSTITUTE NOTICE THEREOF
16 TO THE PERSON.

17 (c) (I) THE HEARING ON AN ORDER TO SHOW CAUSE SHALL BE
18 COMMENCED NO SOONER THAN TEN AND NO LATER THAN FORTY-FIVE
19 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
20 NOTIFICATION BY THE DIRECTOR AS PROVIDED IN PARAGRAPH (b) OF THIS
21 SUBSECTION (2). THE HEARING MAY BE CONTINUED BY AGREEMENT OF
22 ALL PARTIES BASED UPON THE COMPLEXITY OF THE MATTER, NUMBER OF
23 PARTIES TO THE MATTER, AND LEGAL ISSUES PRESENTED IN THE MATTER,
24 BUT IN NO EVENT SHALL THE HEARING COMMENCE LATER THAN SIXTY
25 CALENDAR DAYS AFTER THE DATE OF TRANSMISSION OR SERVICE OF THE
26 NOTIFICATION.

27 (II) IF A PERSON AGAINST WHOM AN ORDER TO SHOW CAUSE HAS

1 BEEN ISSUED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2) DOES
2 NOT APPEAR AT THE HEARING, THE DIRECTOR MAY PRESENT EVIDENCE
3 THAT NOTIFICATION WAS PROPERLY SENT OR SERVED UPON SUCH PERSON
4 PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2) AND SUCH OTHER
5 EVIDENCE RELATED TO THE MATTER AS THE DIRECTOR DEEMS
6 APPROPRIATE. THE DIRECTOR SHALL ISSUE THE ORDER WITHIN TEN DAYS
7 AFTER THE DIRECTOR'S DETERMINATION RELATED TO REASONABLE
8 ATTEMPTS TO NOTIFY THE RESPONDENT, AND THE ORDER SHALL BECOME
9 FINAL AS TO THAT PERSON BY OPERATION OF LAW. SUCH HEARING SHALL
10 BE CONDUCTED PURSUANT TO SECTIONS 24-4-104 AND 24-4-105, C.R.S.

11 (III) IF THE DIRECTOR REASONABLY FINDS THAT THE PERSON
12 AGAINST WHOM THE ORDER TO SHOW CAUSE WAS ISSUED IS ACTING OR
13 HAS ACTED WITHOUT THE REQUIRED LICENSE, OR HAS OR IS ABOUT TO
14 ENGAGE IN ACTS OR PRACTICES CONSTITUTING VIOLATIONS OF THIS
15 ARTICLE, A FINAL CEASE-AND-DESIST ORDER MAY BE ISSUED, DIRECTING
16 SUCH PERSON TO CEASE AND DESIST FROM FURTHER UNLAWFUL ACTS OR
17 UNLICENSED PRACTICES.

18 (IV) THE DIRECTOR SHALL PROVIDE NOTICE, IN THE MANNER SET
19 FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (2), OF THE FINAL
20 CEASE-AND-DESIST ORDER WITHIN TEN CALENDAR DAYS AFTER THE
21 HEARING CONDUCTED PURSUANT TO THIS PARAGRAPH (c) TO EACH PERSON
22 AGAINST WHOM THE FINAL ORDER HAS BEEN ISSUED. THE FINAL ORDER
23 ISSUED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH (c) SHALL
24 BE EFFECTIVE WHEN ISSUED AND SHALL BE A FINAL ORDER FOR PURPOSES
25 OF JUDICIAL REVIEW.

26 (3) IF IT APPEARS TO THE DIRECTOR, BASED UPON CREDIBLE
27 EVIDENCE PRESENTED TO THE DIRECTOR, THAT A PERSON HAS ENGAGED IN

1 OR IS ABOUT TO ENGAGE IN ANY UNLICENSED ACT OR PRACTICE, ANY ACT
2 OR PRACTICE CONSTITUTING A VIOLATION OF THIS ARTICLE, ANY RULE
3 PROMULGATED PURSUANT TO THIS ARTICLE, ANY ORDER ISSUED PURSUANT
4 TO THIS ARTICLE, OR ANY ACT OR PRACTICE CONSTITUTING GROUNDS FOR
5 ADMINISTRATIVE SANCTION PURSUANT TO THIS ARTICLE, THE DIRECTOR
6 MAY ENTER INTO A STIPULATION WITH SUCH PERSON.

7 (4) IF ANY PERSON FAILS TO COMPLY WITH A FINAL
8 CEASE-AND-DESIST ORDER OR A STIPULATION, THE DIRECTOR MAY
9 REQUEST THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY FOR THE
10 JUDICIAL DISTRICT IN WHICH THE ALLEGED VIOLATION EXISTS TO BRING,
11 AND IF SO REQUESTED SUCH ATTORNEY SHALL BRING, SUIT FOR A
12 TEMPORARY RESTRAINING ORDER AND FOR INJUNCTIVE RELIEF TO
13 PREVENT ANY FURTHER OR CONTINUED VIOLATION OF THE FINAL ORDER.

14 (5) A PERSON AGGRIEVED BY THE FINAL CEASE-AND-DESIST ORDER
15 MAY SEEK JUDICIAL REVIEW OF THE DIRECTOR'S DETERMINATION OR OF
16 THE DIRECTOR'S FINAL ORDER AS PROVIDED IN SUBSECTION (2) OF THIS
17 SECTION.

18 **12-35.5-114. Mental and physical examination of licensees.**

19 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
20 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
21 THE DIRECTOR MAY REQUIRE THE PERSON TO TAKE A MENTAL OR PHYSICAL
22 EXAMINATION BY A PHYSICIAN DESIGNATED BY THE DIRECTOR. IF THE
23 LICENSEE REFUSES TO UNDERGO THE MENTAL OR PHYSICAL EXAMINATION,
24 UNLESS DUE TO CIRCUMSTANCES BEYOND THE LICENSEE'S CONTROL, THE
25 DIRECTOR MAY SUSPEND THE LICENSEE'S LICENSE UNTIL THE RESULTS OF
26 THE EXAMINATION ARE KNOWN, AND THE DIRECTOR HAS MADE A
27 DETERMINATION OF THE LICENSEE'S FITNESS TO PRACTICE. THE DIRECTOR

1 SHALL PROCEED WITH ANY SUCH ORDER FOR EXAMINATION AND
2 DETERMINATION IN A TIMELY MANNER.

3 (2) AN ORDER TO A LICENSEE PURSUANT TO SUBSECTION (1) OF
4 THIS SECTION TO UNDERGO A MENTAL OR PHYSICAL EXAMINATION SHALL
5 CONTAIN THE BASIS OF THE DIRECTOR'S REASONABLE CAUSE TO BELIEVE
6 THAT THE LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND
7 SAFETY. FOR THE PURPOSES OF ANY DISCIPLINARY PROCEEDING
8 AUTHORIZED UNDER THIS ARTICLE, THE LICENSEE SHALL BE DEEMED TO
9 HAVE WAIVED ALL OBJECTIONS TO THE ADMISSIBILITY OF THE EXAMINING
10 PHYSICIAN'S TESTIMONY OR EXAMINATION REPORTS ON THE GROUND THAT
11 THEY ARE PRIVILEGED COMMUNICATIONS.

12 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
13 EXAMINATION REPORTS FROM A PHYSICIAN CHOSEN BY THE LICENSEE AND
14 PERTAINING TO ANY CONDITION THAT THE DIRECTOR HAS ALLEGED MAY
15 PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL AND
16 SAFETY. THESE MAY BE CONSIDERED BY THE DIRECTOR IN CONJUNCTION
17 WITH, BUT NOT IN LIEU OF, TESTIMONY AND EXAMINATION REPORTS OF THE
18 PHYSICIAN DESIGNATED BY THE DIRECTOR.

19 (4) THE RESULTS OF A MENTAL OR PHYSICAL EXAMINATION
20 ORDERED BY THE DIRECTOR SHALL NOT BE USED AS EVIDENCE IN ANY
21 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR AND SHALL NOT BE
22 DEEMED PUBLIC RECORDS NOR MADE AVAILABLE TO THE PUBLIC.

23 **12-35.5-115. Unauthorized practice - criminal penalties.** A
24 PERSON WHO PRACTICES OR OFFERS OR ATTEMPTS TO PRACTICE MASSAGE
25 THERAPY WITHOUT AN ACTIVE LICENSE ISSUED UNDER THIS ARTICLE
26 COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED
27 IN SECTION 18-1.3-501, C.R.S., FOR THE FIRST OFFENSE, AND FOR THE

1 SECOND OR ANY SUBSEQUENT OFFENSE, THE PERSON COMMITS A CLASS 6
2 FELONY AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401,
3 C.R.S.

4 **12-35.5-116. Rule-making authority.** THE DIRECTOR SHALL, IN
5 CONSULTATION WITH THE ADVISORY COMMITTEE, PROMULGATE RULES
6 FOR THE ADMINISTRATION OF THIS ARTICLE.

7 **12-35.5-117. Massage therapist advisory committee - creation**
8 **- repeal.** (1) THE DIRECTOR SHALL APPOINT A MASSAGE THERAPIST
9 ADVISORY COMMITTEE OF AT LEAST FIVE MEMBERS TO ASSIST IN THE
10 PERFORMANCE OF THE DIRECTOR'S DUTIES. FOUR MEMBERS SHALL BE
11 LICENSEES, AND THE DIRECTOR SHALL MAKE A GOOD FAITH EFFORT TO
12 APPOINT THE MEMBERS FROM DIVERSE MASSAGE THERAPY PRACTICE
13 SETTINGS. THE FIFTH MEMBER SHALL REPRESENT THE PUBLIC AND SHALL
14 HAVE NO FINANCIAL INTEREST IN, OR OTHER RELATIONSHIP TO, MASSAGE
15 THERAPY. OF THE MEMBERS FIRST APPOINTED TO THE COMMITTEE, THREE
16 SHALL SERVE FOR A TERM OF TWO YEARS AND THE REMAINING MEMBERS
17 SHALL SERVE A TERM OF THREE YEARS. THEREAFTER, EACH COMMITTEE
18 APPOINTMENT SHALL BE FOR A TERM OF THREE YEARS, AND NO PERSON
19 SHALL SERVE ON THE COMMITTEE FOR MORE THAN TWO TERMS.

20 (2) THE ADVISORY COMMITTEE SHALL MEET AT LEAST THREE
21 TIMES DURING ITS FIRST YEAR OF EXISTENCE AND AT LEAST ANNUALLY
22 THEREAFTER.

23 (3) MEMBERS OF THE ADVISORY COMMITTEE SHALL RECEIVE
24 COMPENSATION FOR THEIR SERVICE PURSUANT TO SECTION 24-34-102
25 (13), C.R.S., AND SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY
26 EXPENSES THAT THEY INCUR IN THE PERFORMANCE OF THEIR DUTIES.
27 SUCH REIMBURSEMENT SHALL BE CASH FUNDED AND SHALL NOT EXCEED

1 THE AMOUNT ANTICIPATED TO BE RAISED FROM FEES COLLECTED
2 PURSUANT TO THIS ARTICLE.

3 (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.
4 PRIOR TO SUCH REPEAL, THE ADVISORY COMMITTEE SHALL BE REVIEWED
5 PURSUANT TO SECTION 2-3-1203, C.R.S.

6 **12-35.5-118. Local government - regulations - enforcement.**

7 (1) NO CITY, COUNTY, CITY AND COUNTY, OR OTHER POLITICAL
8 SUBDIVISION OF THIS STATE SHALL ENACT OR ENFORCE ANY LOCAL
9 ORDINANCE THAT REGULATES THE PRACTICE OF MASSAGE OR THE
10 PROFESSION OF MASSAGE THERAPY.

11 (2) LOCAL GOVERNMENT LAW ENFORCEMENT AGENCIES MAY
12 INSPECT MASSAGE THERAPY LICENSES. IF SUCH INSPECTION REVEALS THE
13 PRACTICE OF MASSAGE THERAPY BY A PERSON WITHOUT A VALID LICENSE,
14 THE PERSON SHALL BE CHARGED WITH A MISDEMEANOR PURSUANT TO
15 SECTION 12-35.5-115.

16 **12-35.5-119. Severability.** IF ANY PROVISION OF THIS ARTICLE IS
17 HELD TO BE INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER
18 PROVISIONS OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT SUCH
19 INVALID PROVISION, AND TO THIS END THE PROVISIONS OF THIS ARTICLE
20 ARE DECLARED TO BE SEVERABLE.

21 **12-35.5-120. Repeal of article - review of functions.** (1) THIS
22 ARTICLE IS REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

23 (2) (a) THE LICENSURE FUNCTIONS OF THE DIRECTOR AS SET FORTH
24 IN THIS ARTICLE ARE REPEALED, EFFECTIVE SEPTEMBER 1, 2018.

25 (b) PRIOR TO SUCH REPEAL, THE LICENSING FUNCTIONS SHALL BE
26 REVIEWED PURSUANT TO SECTION 24-34-104, C.R.S.

27 **SECTION 3.** 2-3-1203 (3), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **2-3-1203. Sunset review of advisory committees.** (3) The
3 following dates are the dates for which the statutory authorization for the
4 designated advisory committees is scheduled for repeal:

5 (ee) SEPTEMBER 1, 2018: THE MESSAGE THERAPIST ADVISORY
6 COMMITTEE, CREATED PURSUANT TO SECTION 12-35.5-117, C.R.S.

7 **SECTION 4. Repeal.** 24-34-104 (46) (a), Colorado Revised
8 Statutes, is repealed as follows:

9 **24-34-104. General assembly review of regulatory agencies
10 and functions for termination, continuation, or reestablishment.**

11 (46) The following agencies, functions, or both, shall terminate on July
12 1, 2015:

13 (a) ~~The licensing of massage parlors in accordance with article
14 48.5 of title 12, C.R.S.;~~

15 **SECTION 5.** 24-34-104 (49), Colorado Revised Statutes, is
16 amended to read:

17 **24-34-104. General assembly review of regulatory agencies
18 and functions for termination, continuation, or reestablishment.**

19 (49) (a) The following agencies, functions, or both, shall terminate on
20 July 1, 2018: The environmental management system permit program,
21 created in article 6.6 of title 25, C.R.S.

22 (b) THE FOLLOWING AGENCIES, FUNCTIONS, OR BOTH, SHALL
23 TERMINATE ON SEPTEMBER 1, 2018: THE LICENSING OF MESSAGE
24 THERAPISTS BY THE DIRECTOR OF THE DIVISION OF REGISTRATIONS IN
25 ACCORDANCE WITH ARTICLE 35.5 OF TITLE 12, C.R.S.

26 **SECTION 6. Effective date - applicability.** (1) This act shall
27 take effect September 1, 2008.

1 (2) However, if a referendum petition is filed against this act or
2 an item, section, or part of this act during the 90-day period after final
3 adjournment of the general assembly that is allowed for submitting a
4 referendum petition pursuant to article V, section 1 (3) of the state
5 constitution, then the act, item, section, or part, shall not take effect unless
6 approved by the people at a biennial regular general election and shall
7 take effect on the date specified in subsection (1) or on the date of the
8 official declaration of the vote thereon by proclamation of the governor,
9 whichever is later.

10 (3) The provisions of this act shall apply to the practice of
11 massage therapy on or after the applicable effective date of this act.